

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

BRANDON J. HOLMES,
Plaintiff

v.

J. ECK, C. PIZZOLI, M. RUSSO, and
B. MOTTERN,
Defendants

: **No. 3:16cv644**
:
: **(Judge Munley)**
:
: **(Magistrate Judge Arbuckle)**
:
:
:

ORDER

AND NOW, to wit, this 21st day of March 2018, we have before us for disposition Magistrate Judge William Arbuckle's report and recommendation, which proposes that defendants' motion to dismiss the plaintiff's complaint for failure to state a claim be denied. Magistrate Judge Arbuckle further recommends that plaintiff's claim for a specific amount of unliquidated damages be stricken from the record, and plaintiff be afforded leave to amend to add previously unnamed individuals, either by name or as "John Doe" or "Jane Doe."

No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(B) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation");

see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 61) is **ADOPTED**;
- 2) The defendants' motion to dismiss (Doc. 53) is **DENIED**;
- 3) Plaintiff's claim for a specific amount of unliquidated damages is **STRICKEN** from the record;
- 4) Plaintiff has **THIRTY (30) DAYS** to amend his complaint consistent with the rulings of this order and to add previously unnamed individuals, either by name or as "John Doe" or "Jane Doe;" and
- 5) The Clerk of Court is directed to **REMAND** this matter to Magistrate Judge Arbuckle for further proceedings.

BY THE COURT

s/ James M. Munley
JUDGE JAMES M. MUNLEY
United States District Court